

REMARKS

The Office Action dated 24 March 2005 has been reviewed, and the comments of the U.S. Patent Office have been considered. Claims 1 and 5 are currently amended, claims 2-4, 6 and 7 remain as originally filed, and new claims 8 and 9 have been added. Thus, claims 1-9 are respectfully submitted for consideration by the Examiner.

The specification has been amended to correct a typographical error. Support for replacement paragraph 0013 as presented above may be found, for example, in Figure 2 as originally filed.

The drawings were objected to because the exploded view shown in Figure 2 was not embraced by a bracket. Submitted under separate cover is a drawing replacement sheet that is respectfully submitted to overcome the objection. As such, withdrawal of the drawing objection is respectfully requested.

Claims 1, 2 and 5 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,023,898 to Josey. Claims 1-3, 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,189,8579 to Herren et al. ("Herren") in view of U.S. Patent No. 5,860,213 to Knudson. And claims 4 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Josey in view of U.S. Patent No. 5,411,812 to Bilimoria. These rejections are respectfully traversed in view of the above amendments and the following comments.

Independent claim 1 recites a framing system including "a plurality of studs," "a plurality of track mounted to the plurality of studs," and "the body of each of the plurality of track also includes at least one mounting hole at respective mounting locations of each of the plurality of studs." Similarly, independent claim 5 recites a framing system including "a plurality of studs," "a plurality of track mounted to the plurality of studs," and "the body of each track also includes a plurality of mounting holes for the mounting of the track to at least one of the plurality of studs." With reference to a preferred embodiment as shown and described in the application as originally filed, a framing system 10 includes a plurality studs 12 and a plurality of track 14 that are mounted together. *See* paragraph 0010 and Figure 1. The longitudinal ends of the plurality of studs 12 are each coupled with respect to each of the plurality of track 14. In particular,

mounting holes 44 are located along the body 32 of the track 14, and fasteners or rivets or the like extend through the holes 44 and are used to couple to the track 14 to the end flaps 31 of each stud 12. *See* paragraph 0013 and Figure 2.

In contrast, Josey shows double-sided adhesive tape 44 adhered between the outer face of tab 26 and the upper surface of wall 32 to secure the lower end of stud 10 to channel member 12. Josey is specifically directed to metal building framing components that are joined with double-sided adhesive tape. *See* Abstract. Moreover, Josey makes reference to “the only purpose for screws in an interior non-load bearing wall is to hold the studs in a vertical position until dry wall is applied” (column 2, lines 3-11). As such, Josey teaches against screws in favor of adhesive tape, and does not provide mounting holes, much less provide mounting holes in “the body” of a track as recited in Applicants’ claims 1 and 5. And even when Josey shows screws, the screws are stated as being self tapping (again, there are no mounting holes provided) and are driven through the parallel vertical walls 34,36 (as opposed to the lower horizontal wall 32) and extend into end walls 18,20 (as opposed to the tabs 26,28).

It is respectfully submitted, for at least any of the above reasons, that Josey fails to teach or suggest each and every feature of Applicants’ framing system as recited in independent claims 1 and 5. Therefore, the rejections under 35 U.S.C. § 102(b) should be withdrawn and claims 1 and 5 allowed over Josey. Claim 2 depends from claim 1 and therefore recites the same allowable combination of features, as well as reciting additional features that further distinguish over Josey.

With respect to Herren in view of Knudson, the Office Action interprets Herren as showing “a plurality of studs (30)” and “a pair of tracks (12,14).” *See* paragraph 5 of the Office Action. However, Herren shows and states that a cross connecting device 30 fits between studs 12,14 so as to provide transverse bridging, bracing or linking. *See* column 1, line 62, to column 2, line 15. It is respectfully submitted that Herren fails to teach or suggest Applicants’ framing system as recited in independent claims 1 and 5 insofar as Herren fails to teach or suggest using plural elements 30. And Knudson, which the Office Action relies upon to allegedly suggest making Herren’s element 30 C-shaped by forming second opposing flanges, fails to overcome the deficiencies of Herren.

Additionally, Herren and Knudson, whether considered individually or in combination, fail to teach or suggest Applicants' mounting holes and therefore suffer from one of the same deficiencies as discussed above with respect to Josey.

It is respectfully submitted, for at least any of the above reasons, that Herren and Knudson, whether considered individually or in combination, also fail to teach or suggest each and every feature of Applicants' framing system as recited in independent claims 1 and 5. Therefore, the rejections under 35 U.S.C. § 103(a) should be withdrawn and claims 1 and 5 allowed over Herren and Knudson. Claims 2 and 3 depend from claim 1, and claim 6 depends from claim 5, and therefore these claims recite the same allowable combination of features of their respective independent claims, as well as reciting additional features that further distinguish over Herren and Knudson.

The Office Action relies on Bilimoria allegedly to suggest making the structures of Josey or Herren and Knudson of carbon steel with a galvanized zinc coating. Even if this allegation was accepted by Applicants', which it is not, Bilimoria would still fail to overcome the aforementioned deficiencies of Josey or Herren and Knudson.

Thus, it is respectfully submitted, for at least any of the above reasons, that Bilimoria, whether considered individually or in combination with Josey, Herren or Knudson, also fails to teach or suggest each and every feature of Applicants' framing system as recited in claims 4 and 7. Therefore, the rejections under 35 U.S.C. § 103(a) should be withdrawn and claims 4 and 7 allowed over Bilimoria.

New claims 8 and 9 have been added to further distinguish over Herren, whether considered individually or in combination. Specifically, Herren shows a pair of studs 12,14 having opposing flanges of a first one of the pair extending in the same direction, instead of opposing, with respect to the flanges of a second one of the pair. Support for these features may be found in Applicants' specification as originally filed in, for example, Figures 1 and 2.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration of this Application and the prompt allowance of claims 1-9.

Should the Examiner feel that there are any issues outstanding after consideration of this reply, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution of the application.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).**

Respectfully submitted,

Date: _____

25 July 2005

HELLER EHRMAN LLP
1717 Rhode Island Avenue, NW
Washington, DC 20036
Telephone: (202) 912-2000
Facsimile: (202) 912-2020

By _____

Scott J. Anchell

Scott J. Anchell
Agent for Applicant
Registration No. 35,035
Customer No. 26633